



Memorandum # 36/2006

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
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MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Recent CRAB Decision Regarding Workers' Compensation Lump Sum Settlements, Flynn v. PERAC, CR-04-722

DATE: July 25, 2006

The above-referenced recent CRAB decision has affirmed a DALA decision upholding PERAC's position that G.L. c. 32 does not permit a Retirement Board to accept a portion of a workers' compensation lump sum settlement that is less than the full amount attributable to weekly benefits. A copy of the CRAB and DALA decisions are attached.

The Petitioner, Ms. Flynn, retired for accidental disability retirement and received workers' compensation benefits that were offset as provided for in G.L. c. 32, § 14. When the Retirement Board told her that it had initiated a policy whereby it would accept 20 – 25% of a workers' compensation lump sum settlement in full satisfaction of the amount subject to offset, she settled her workers' compensation claim by means of a lump sum settlement.

In the settlement, the Town and Ms. Flynn agreed to a lump sum payment in the total amount of \$15,000. They further agreed that \$2,500 in attorney's fees and \$3,000 to be paid to the Retirement Board would be deducted from the settlement and Ms. Flynn would receive the remaining \$9,500. PERAC reviewed the offset documents and advised the Board that because the \$9,500 was not attributable to one of the sections not subject to offset, the full \$9,500 was to be offset consistent with the formula contained in G.L. c. 32, § 14. The Board complied with PERAC's directive and Ms. Flynn appealed to CRAB.

Both DALA and CRAB upheld PERAC, ruling that nothing in G.L. c. 32 gave the Board authority to accept less than the statutorily mandated amount. **Effective immediately, Retirement Boards are not allowed to accept less than the full amount that is subject to offset.** Boards may elect to accept the full amount of an offset in one payment, but are prohibited from accepting a portion of the lump sum settlement in full satisfaction of the offset.

Attachments